

House Bill 1202

By: Representative Stephens of the 164<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 48-7-29.12 of the Official Code of Georgia Annotated, relating to the income tax credit for donation of real property for conservation purposes, so as to provide for the transfer, devise, and distribution of unused conservation tax credits; to provide for procedures, conditions, and limitations; to provide for related matters; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 48-7-29.12 of the Official Code of Georgia Annotated, relating to the income tax credit for donation of real property for conservation purposes, is amended by adding a new subsection to read as follows:

"(d.1) Any tax credits under this Code section earned by a taxpayer and previously claimed but not used by such taxpayer against such taxpayer's income tax may be transferred or sold in whole or in part by such taxpayer to another Georgia taxpayer, subject to the following conditions:

(1) The transferor shall submit to the department a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include such transferor's tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for each transferee, the date of transfer, the amount transferred, and any other information required by the department;

(2) Failure to comply with this subsection shall result in the disallowance of the tax credit until the taxpayer is in full compliance;

(3) In no event shall the amount of the tax credit under this subsection claimed and allowed for a taxable year exceed the transferee's income tax liability. Any unused credit may be carried forward to subsequent taxable years provided that the transfer or sale of this tax credit does not extend the time in which such tax credit can be used. The

27 carry-forward period for tax credit that is transferred or sold shall begin on the date on  
28 which the tax credit was originally earned; and  
29 (4) A transferee shall have only such rights to claim and use the tax credit that were  
30 available to the transferor at the time of the transfer. To the extent that such transferor  
31 did not have rights to claim or use the tax credit at the time of the transfer, the department  
32 shall either disallow the tax credit claimed by the transferee or recapture the tax credit  
33 from the transferee. The transferee's recourse is against the transferor."

34 **SECTION 2.**

35 This Act shall become effective on January 1, 2011, and shall apply to all taxable years  
36 beginning on or after January 1, 2011.

37 **SECTION 3.**

38 All laws and parts of laws in conflict with this Act are repealed.